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**IN THE
COURT OF APPEALS OF INDIANA**

CHARLES HARDIN,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 48A02-0606-CR-474
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE MADISON SUPERIOR COURT
The Honorable Thomas Newman, Jr., Judge
Cause No. 48D03-0105-CF-179

March 5, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Charles Hardin appeals the revocation of his probation. We affirm.

Issue

We restate the issue as whether the trial court abused its discretion in revoking Hardin's probation.

Facts and Procedural History

The facts most favorable to the judgment are as follows. In 2001, Hardin pled guilty to two counts of class B felony dealing in cocaine. The trial court accepted Hardin's plea and handed down concurrent sentences of twenty years of imprisonment for each count. Hardin was placed in the Department of Correction until January of 2003, when he was initially placed on probation.

In June of 2003, the probation department filed its first notice of probation violation against Hardin. Hardin admitted the violation and was placed at the Madison County Work Release Facility for six months. After a review hearing in September of 2003, the trial court continued Hardin's probation.

In June of 2004, the probation department filed a second notice of probation violation against Hardin. The trial court found that Hardin had again violated his probation and ordered him to complete a course of treatment at Richmond State Hospital. Following the completion of the treatment program in March of 2005, the trial court permitted Hardin to continue his probation.

On March 4, 2006, at 3:49 a.m., two police officers were called to the scene of an Anderson club where an altercation involving handguns was allegedly taking place. Two

witnesses gave the officers a description of an individual involved in the altercation and the vehicle that the individual was driving. Hardin fit the description given to the officers and was found at the scene. One of the officers briefly interrogated Hardin and then permitted him to leave the scene.

As a result of the events of that evening, the probation department filed a third notice of probation violation against Hardin on April 6, 2006. The notice alleged that Hardin had violated his probation by possessing a firearm, failing to pay court costs, failing to pay restitution, and violating his 12:00 a.m. to 6:00 a.m. curfew. A revocation hearing was held on April 24, 2006. The trial court found that all four alleged violations had occurred. The trial court revoked Hardin's probation and ordered him to serve the remainder of his sentence in the Department of Correction. Hardin appeals the trial court's finding on each violation.

Discussion and Decision

In addressing Hardin's contention that the trial court abused its discretion when it revoked his probation, we first note that probation is a "matter of grace" and a "conditional liberty that is a favor, not a right." *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999). The revocation of probation, therefore, deprives the defendant "not of the absolute liberty to which every citizen is entitled, but only of the conditional liberty properly dependent on observance of the special parole restrictions." *Hubbard v. State*, 683 N.E.2d 618, 620 (Ind. Ct. App. 1997). It is within the trial court's sole discretion to decide whether to revoke probation if any of the restrictions are violated. *Johnson v. State*, 606 N.E.2d 881, 882 (Ind. Ct. App. 1993).

We will review the decision to revoke probation for an abuse of discretion. *Sanders v.*

State, 825 N.E.2d 952, 956 (Ind. Ct. App. 2005). An abuse of discretion has occurred if the decision to revoke probation is “against the logic and effect of the facts and circumstances before the court.” *Rosa v. State*, 832 N.E.2d 1119, 1121 (Ind. Ct. App. 2005). In reviewing the record for an abuse of discretion, we will not reweigh the evidence or reassess the credibility of witnesses. *Brabandt v. State*, 797 N.E.2d 855, 861 (Ind. Ct. App. 2003). If there is substantial evidence of probative value supporting the trial court’s conclusion that the defendant violated any condition of probation, we will affirm the revocation. *Id.*

The trial court read the conditions of probation to Hardin at his probation hearing in January of 2003. With respect to curfew, the trial court specifically informed Hardin that he was to be at home between 12:00 a.m. and 6:00 a.m., unless for good reason, such as employment. Hardin acknowledges that he knowingly violated the curfew condition of his probation by being at the club in the early morning hours of March 4, 2006. He argues, however, that this violation of curfew was “for good reason” as he was only at the club to pick up his sister. Hardin denies having any involvement in the other events of that evening.

The trial court specifically found Hardin’s story incredible. As noted above, we will not re-assess the credibility of witnesses on appeal. Thus, the facts most favorable to the judgment show that Hardin violated his curfew. Generally, proof of a single violation is a sufficient basis to revoke probation. *Brabandt*, 797 N.E.2d at 860-61. It was therefore well within the trial court’s discretion to revoke Hardin’s probation based solely on the curfew violation. Breaking curfew, however, was not Hardin’s first and only violation. Hardin had violated his probation on at least two previous occasions. Under these circumstances, we cannot say that it was an abuse of discretion for the trial court to revoke Hardin’s probation

after he admitted to violating his curfew. Because we find that the curfew violation was a sufficient basis to revoke probation, we need not address Hardin's other arguments.

Affirmed.

SHARPNACK, J., concurs.

SULLIVAN, J., concurs in result.